

Appendix S

**Relevant Sections of
Western Area Power Administration's and
Bureau of Reclamation's Joint Operating
Agreement and Master Agreement**



United States Department of the Interior
WATER AND POWER RESOURCES SERVICE
~~BUREAU OF RECLAMATION~~
WASHINGTON, D.C. 20240

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IN REPLY
REFER TO: 115
911.

MAR 26 1980

Memorandum

To: Administrator
Western Area Power Administration

✓ Commissioner
Water and Power Resources Service

From: Deputy Administrator
Western Area Power Administration

W. M. H. Clyatt

Assistant Commissioner
Water and Power Resources Service

[Signature]

Subject: Transfer of Functions and Property as per P.L. 95-91

Our February 27, 1980, memorandum to you transmitted the master agreement on performance of functions reached by the joint task force in accordance with your November 26, 1979, memorandum. The agreement has since been reviewed by the Regional, Area, and other offices in each agency. A number of comments were offered to the task force which we have jointly reviewed. As a result, some minor changes have been made in the agreement which we now forward for your signature. None of these changes impact the agreements reached on transfer of property. We have been advised by the Regional Directors and Area Managers that the Region/Area agreements are in compliance with this master agreement.

We suggest you jointly sign the master agreement as soon as convenient.

Our February 27, 1980, memorandum pointed out that the master agreement does not address the accounting or disposition of revenues from the power marketing activity and indicated that both the existing legislation and proposed revolving fund legislation give adequate direction and assurances on this matter. Currently, there are a number of informal operations and agreements at the Region/Area level which interpret and implement these legislative guidelines. Several Regional Directors have requested that a formal agreement be reached covering disposition of revenues, transfer of account balances, and other accounting matters. We

believe that, for the long term, an agreement covering finance and accounting matters needs to be developed and that the sooner such an agreement is developed the better the relationship between the agencies will be. We suggest you discuss this matter with the appropriate staff of each agency at an early date.

Enclosure

AGREEMENT BETWEEN

WATER AND POWER RESOURCES SERVICE
DEPARTMENT OF THE INTERIOR

AND

WESTERN AREA POWER ADMINISTRATION
DEPARTMENT OF ENERGY

THIS AGREEMENT is entered into and effective this 26th day of March 1980, between the Water and Power Resources Service (hereinafter called the Service), represented by the Commissioner, and the Western Area Power Administration (hereinafter called Western), represented by the Administrator,

WITNESSETH:

WHEREAS: Public Law 95-91 transferred the power marketing function of the Service to Western, including the construction, operation and maintenance of transmission lines and attendant facilities; and

WHEREAS: The intent of this agreement is to implement the principles agreed to by the Commissioner and the Administrator in their memorandum dated November 26, 1979, concerning the transfer of functions and property as per Public Law 95-91; and

WHEREAS: The Service and Western wish to define each agency's responsibilities with respect to that part of the Federal power system referenced in Public Law 95-91; and

WHEREAS: The Service and Western wish to operate the Federal power system in the most efficient manner and to avoid duplication of manpower, functions, and facilities; and

WHEREAS: The Service and Western wish to optimize power benefits while preserving other project benefits; and

NOW, THEREFORE, the parties hereto agree as follows:

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1. Responsibility of the Service

The Service has responsibility for planning, designing, constructing, operation, and maintenance of hydro and other forms of electrical power generation as authorized by the Congress.

The Service also has responsibility for water release scheduling and for operational control of all generator units. However, the Service will provide opportunity for Western input to water release decisions and, to the extent practicable, provide to Western generator operative parameters so as to allow Western to optimize the utilization of power resources.

2. Responsibility of Western

Western has responsibility for planning, designing, construction, operation and maintenance of the transmission system, marketing the Federal power and setting power rates to assure that revenues are sufficient to accomplish repayment of all the allocated investment.

Western is also responsible for all power dispatch functions. This includes operations such as the assignment of load to specific generating stations and other sources of supply to effect the most reliable and economical supply as the total of significant area loads rise or fall, provided this can be done within water and operating constraints set by the Service; the control of operation and maintenance of high-voltage lines, substations, and equipment, including administration of safety procedures; the operation of principal tielines and switching; and the scheduling of energy transactions with connecting electric utilities.

Western will provide transmission, switching, necessary wheeling arrangements, and substation service for the Service's projects for all power including project use power, except at some isolated locations and in special circumstances as agreed to by both parties. Western will deliver project power as required by the Service.

3. Availability of Energy

All power and energy generated by the Service in excess of the Service's project loads and station service requirements shall be available to Western for marketing in accordance with applicable congressional authorizations, laws, and regulations.

The Service shall operate the generating plants so as to schedule and to make available electric power and energy as requested by Western, provided that compliance with such request and the operation of the generating plants:

- would not require the safe limits of the generating, transforming, and switching facilities and appurtenant equipment of said generating plants to be exceeded, or otherwise cause damage to the same;

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- would not conflict with requirements for the operation of said generating plants with regard to flood control, navigation, irrigation, or with other such purposes as associated Service projects are to serve;
- would avoid, insofar as practicable, harmful effects on downstream activities and interests.

Provided, however, such operation shall be subject to temporary interruption or reductions in the availability of the electric power and energy when, in the opinion of the Service a generating plant requires maintenance, replacement, installation of equipment or investigation and inspection.

The use by the Service of electric power and energy required for project loads and station service use and the outages contemplated above shall be scheduled in advance so that there will be a minimum of interference with the delivery of electric power and energy to Western for marketing.

4. Exhibits

In order to provide for the optimum effectiveness of the Federal power system, the Service and Western have established policies related to the coordination of their activities in areas of mutual interest. These policies are stated in the following exhibits:

<u>Exhibit</u>	<u>Title</u>
A	Power Planning
B	Design and Construction
C	Budgeting and Program Control
D	Research, Laboratory, and Testing Services
E	Project Use Power
F	Power System Operations
G	Power Repayment Studies

The exhibits are attached hereto and hereby made a part of this agreement.

5. Jurisdiction of Lands

The title to all of the lands and rights-of-way involved in this agreement are in the United States. The Commissioner and the Administrator have agreed on an appropriate listing of facilities that will transfer from Service to Western in accordance with Public Law 95-91. This listing has been prepared for inclusion in an Office of Management and Budget determination order that will effect the transfer of the facilities. The Service will transfer jurisdiction of the lands and rights-of-way to Western relating to the transferred facilities. It is agreed that both agencies will aggressively pursue the development of appropriate descriptions for the transferred land and right-of-way.

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The exception to transfer all of the Service's interest involves, but is not limited to, transmission lines and access roads that occupy land and land rights that are still required by the Service for its project purposes. Examples are transmission lines along canal right-of-way or across land around reservoirs, and specific provisions included in the Determination Order listing filed with OMB on March 10, 1980. In these cases, Western will be permitted to utilize the Service's reserved land and land rights for the purpose of access, construction, modification, and operation and maintenance of the transmission system as provided in Area/Region agreements.

Since the transfer of substations and switchyards will include sufficient land for future expansion, for appropriate access, and for buffer zones around these facilities, it is agreed that when practical to do so, these areas will be described by aliquot parts of sections rather than using surveyed legal descriptions. Surveys might be required where a transferred facility is so close to a non-transferred facility that an on-site line of demarcation needs to be established.

It is recognized that, due to the integrated nature of the Service's and Western's power facilities, future transfers and/or exchanges of land and land rights may be appropriate. It is agreed that Western and the Service will cooperate to the fullest in the accomplishment of these future land transfers and exchanges.

6. Cooperation

Either the Service or Western may request the other to furnish personnel, materials, tools, and equipment. The party so requested will cooperate with the other and render such assistance as the party so requested may determine to be available. Reimbursement for such cooperation shall be in accordance with provisions of exhibit C.

7. Central Arizona Project Transmission Facilities and Navajo Generating Station

This agreement recognizes and endorses the February 28, 1980, agreement on Navajo Generating Station reached between the Regional Director of the Lower Colorado Region and the Boulder City Area Manager. It is further agreed that ownership and control of the CAP transmission facilities and the United States share of the Navajo Project will remain in Federal ownership and will not be transferred to any other entity in the future.

8. Uncontrollable Forces

Neither party shall be considered to be in default in respect to any obligation hereunder if prevented from fulfilling such obligation by reason of uncontrollable forces, the term "uncontrollable forces" for the purpose of this agreement shall mean any cause beyond the control of the party affected, including but not limited to flood, earthquake, storm, lightning, fire,

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epidemic, war, riot, civil disturbance, labor disturbance, sabotage, and restraint by court or public authority, which uncontrollable forces, by exercise of due diligence and foresight, such party could not reasonably have been expected to avoid. Either party rendered unable to fulfill any obligation by reason of uncontrollable forces shall exercise due diligence to remove such inability with all reasonable dispatch.

9. Continuation of Agreement

It is the intention of the Service and Western that this agreement shall continue in effect so long as there are mutual benefits to be derived hereunder. Should there be a change in legislation affecting the parties, or should there be a significant change in circumstances affecting the benefits derived hereunder, the parties will provide notice and negotiate appropriate changes in the terms of this agreement. Until changes are mutually established or until the parties determine that a change cannot be mutually agreed upon, this agreement shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day first above written.

UNITED STATES OF AMERICA
DEPARTMENT OF THE INTERIOR

By 

Commissioner

Water and Power Resources Service

UNITED STATES OF AMERICA
DEPARTMENT OF ENERGY

By 

Administrator

Western Area Power Administration

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POWER PLANNING

1. General

The Service and Western desire to develop a strong, mutually supportive power planning program to efficiently achieve the missions assigned to each agency.

The parties hereto mutually agree to provide for close coordination and identification of responsibility between agencies in planning for future projects and expansion of existing projects, including consideration of plant sizing studies, water supply and reservoir storage allocations, cost allocations, determination of power values for planning and design studies, marketing plans, power repayment studies, transmission system requirements, and generation planning model studies.

The planning and development of future Service power-producing or power-consuming facilities, as well as planning for increasing capacities of existing Service power facilities, will remain the responsibility of the Service.

The marketing of Federal power and the planning and development of future Federal transmission facilities will remain the responsibility of Western.

Carrying out the above responsibilities will require close and timely coordination between the two agencies, including water supply studies (resource availability), load studies (power needs), engineering studies, economic analyses, financial analyses, and environmental and social assessments.

2. Responsibilities of Water and Power Resources Service

The Service has statutory responsibilities for comprehensive planning, development, and management of multi-purpose water and related land resources projects for multiple objectives. In carrying out these responsibilities, Service will determine the extent to which its regional renewable energy resources can be developed by conducting appraisal and feasibility studies of its potential power-producing or power-consuming developments.

Service has the responsibility for appraisal grade resource studies, with the latitude of evaluating project alternatives using basic power marketing and transmission data provided by Western. Service has the responsibility for feasibility grade resource studies, with Western's active participation through membership on the planning team.

Public meetings (including those with affected power customers) held in connection with feasibility grade resource studies will be conducted by the Service with active participation by Western. Public comments will be directed to the Service, who will furnish pertinent comments to Western for response. Service will coordinate all responses back to the public.

3. Responsibilities of Western Area Power Administration

Western has statutory responsibilities for marketing of Federal power and planning, development, and management of the associated transmission facilities. In carrying out these responsibilities, Western will determine marketability of power from proposed resource developments. Western will also identify interconnected transmission system requirements as well as transmission requirements for Service projects under appraisal or feasibility level investigation. Western serves as the principal point of contact with non-federal power utilities regarding power marketing and planning matters.

Western has the responsibility for appraisal grade transmission and marketing studies, with the latitude of evaluating related alternatives using basic power resource data provided by the Service. Western has responsibility for feasibility grade transmission and marketing studies, and Service may be included on the planning team if desired by either agency.

Public meetings held in connection with power marketing or transmission plans will be conducted by Western. Public comments will be directed to Western, who will furnish pertinent comments to Service for response. Western will coordinate all responses back to the public.

4. General Coordination

Virtually all activities of Western and Service related to Service power resources, loads, and associated Western transmission facilities need to be closely coordinated between the two agencies. To facilitate frequent exchange of information on the activities of each agency, a coordinating committee of representatives of both agencies will be established in each Region/Area and Headquarters Office to meet regularly to discuss items of mutual interest and coordinate activities. The committees can agree to possible deviations from the assignment of specific responsibilities described in section 5 below.

5. Study Items

The following is a description and general assignment of specific responsibilities for study items involved in the planning process at the feasibility level:

a. Water Supply Studies. Studies of multipurpose water resource development require water supply analyses; which include river regulation, depletions, reservoir sizing (including annual and longer term operating plans), allocation of storage capacities, and determination of maximum and minimum water levels for power and other functions. These studies will be performed by Service with active participation of Western and other concerned agencies. Also included under this item are hydrological diversity studies concerned with possible interbasin power transfers, which would be performed by Western, with participation by Service if desired by either agency.

b. Load Studies. Estimates of future loads and power requirements are required to determine the need for additional capacity and energy, as well as to determine when the power resources will be required. These power marketing surveys, including analyses of alternative and/or complementary power resources, will be performed by Western with participation by Service. Service will advise Western of its need for such studies and provide input data from water marketing surveys.

c. Engineering Studies. As an integral part of the plan formulation process, studies are required to determine potential project power generation capability and potential project power requirements. Such studies involve siting and sizing of facilities, number of generating or pumping units, design parameters, their operating characteristics, and associated costs. Potential generation sources include modifications to existing hydroelectric plants; new hydroelectric plants; pumped-storage plants; and wind, solar, and geothermal electric generation plants. Potential project power requirements could be for facilities such as pumping plants and desalting plants. These engineering studies will be performed by Service with participation by Western.

In the plan formulation process, it is also necessary to analyze the required transmission facilities or arrangements to provide power to project facilities and market power surplus to project requirements. Existing and new transmission facilities are considered, as well as the effect of any new facilities on the existing system. Where capacity of a non-Federal system may be used, an estimated wheeling rate is also required. All of these studies will be performed by Western, with participation by Service. Western will provide to Service the designs and cost estimates for all transmission facilities and, when required, estimated costs for wheeling power over non-Federal transmission lines. The general criteria for transmission cost estimates is included as an enclosure to Exhibit A.

d. Economic Analyses. Power planning programs require a variety of economic studies as they progress through plan formulation to the plan selection and evaluation stages. These studies will be performed by Service with participation of Western. Economic studies involve use of "power values" for computing benefit/cost ratios and design optimization. Methods of determining power values include marketability, developing costs of thermal generating alternatives and use of generation planning models. The Service has responsibility for developing power values with Western providing input as required. Service and Western shall jointly develop generation planning models. Generally, Service will provide data and expertise pertaining to the potential resource technical aspects, and generally, Western will provide data and expertise pertaining to the area loads and resources. Recognizing the strong economic data base and modeling capability of FERC, they may also be requested to provide power values. Power values will then be mutually reviewed and agreed upon by Western and Service.

e. Financial Analyses. Power planning programs associated with multipurpose water resource projects require a variety of financial studies to determine marketability, cost allocation, and repayment capability. These studies involve determination of the type and amount of commodity available; i.e., firm capacity, peaking capacity, firm

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energy, and surplus energy. They also determine the practicability of integration of new resources with existing resources and the effects on financial feasibility and total resource availability. In addition, the studies determine if the water and/or power rates required to ensure repayment obligations, including obligation to basin funds, are competitive from a marketing standpoint.

For financial analyses as part of the planning process, final determination of study input items such as dependable capacity, average year energy, and availability of non-firm energy are subject to mutual agreement of Service and Western. Power marketing plans will be developed by Western with participation by Service; project cost allocation studies will be performed by Service with participation by Western.

The determination of reimbursable and non-reimbursable costs for all purposes and the analysis of overall costs to be recovered by revenues in accordance with current policy will be performed by Service. Power repayment analysis to determine the marketability of and rates for any additional power generation source will be performed by Western with participation by Service.

f. Environmental and Social Assessments. Assessments of impacts as to environmental and social implications of a potential Federal or non-Federal power development are required during the planning process as a measure of the acceptability of a proposed project development. Inasmuch as these studies involve determinations of environmental and social conditions over the entire area of influence of a proposed project with and without proposed developments, they will be performed by Service, with Western participating as a cooperating agency commensurate with CEQ regulations. Each agency will be responsible for compliance with NEPA in regard to its individual development responsibilities whenever a common environmental statement is not practical. For studies of transmission needs not directly associated with Service projects, Western will perform such studies.